

(2024) 05 SHI CK 0140

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 938 Of 2024

Abrar Ahmad

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 27-05-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 354C, 376
Information Technology Act, 2000 — Section 67C
Protection Of Children From Sexual Offences Act, 2012 — Section 6, 10, 14

Citation : (2024) 05 SHI CK 0140

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Parikshit Rathore, Rajat Chauhan, Virender Singh

Final Decision : Disposed Of

Judgement

Ajay Mohan Goel, J

1. By way of this petition filed under Section 439 of the Criminal Procedure Code, the petitioner has prayed for grant of regular bail, in FIR No.279 of 2021, dated 08.09.2021, registered under Sections 354-C and 376 of the Indian Penal Code, (hereinafter to be referred as 'IPC' for short) and Section 67C of IT Act and Section 6, 10 and 14 of the POCSO Act, at Police Station Nalagarh, District Solan, H.P.

2. A perusal of the record reveals that the FIR in the case was lodged on 08.09.2021, whereas the petitioner is in custody since 9th of January, 2022. The main reason on account of which the petitioner has prayed for his release on bail is his medical condition.

3. When the matter was listed before the Court on 15.05.2024, the following order was passed:-

"Status report filed, which is ordered to be taken on record. Heard for some time.

Learned counsel for the petitioner has primarily argued that the trial is not proceeding at a desirable pace and further the petitioner is medically unwell and on this count he be released on bail. He submitted that the petitioner earlier remained admitted in Indira Gandhi Medical College (IGMC), Shimla on account of Kidney disorder and now he is suffering from serious heart ailment.

Learned Additional Advocate General to intimate the Court on the next date of hearing on the basis of the report of a medical expert as to what is the medical condition of the petitioner and whether he is suffering from grave medical ailments as has been suggested by the learned counsel for the petitioner. For this purpose, list on 23.05.2024. Fresh report need not be filed and the Investigating Officer need not remain present in the Court on the next date of hearing."

4. Thereafter on 25.05.2024, the following order was passed by the Court:-

"Status report filed. Ordered to be taken on record. Alongwith the status report, the medical certificate issued by the Medical Officer, Model Central Jail, Kanda, District Shimla, Himachal Pradesh, is also appended. Having perused the same, as prayed for, the case is ordered to be listed on 27.05.2024, with further direction that let the Medical Officer supplement his earlier certificate by stating as to whether the medical issues from which the petitioner is suffering, can be redressed in custody or not."

5. Today, a fresh status report has been filed, alongwith which, a certificate issued by the Medical Officer, Model Central Jail, Kanda, Shimla, HP, dated 25.05.2024, is appended, which reads as under:-

"It is certified that U/T Abrar Ahmad S/o Anwer Ahmed, Age 48yr, R/o Ward No. 3 Nalagarh District Solan H.P. Presently lodged in this jail in case FIR No. 279/21 dated 08/09/2021 U.S. 354-C, 376 IPC & Sec 6 PocsO Act, 67 CA IT Act P.S. Nalagarh. As per medical record patient suffers from CAD-ACS with HTN X 5 years & Left RSD- Left PCNL done in March 2023, he has been under regular review/ follow up treatment from Indira Gandhi Medical College & Hospital Shimla H.P now the patient refers to Post Graduate Institute of Medical Education and Research, Chandigarh (U.T) for the management of the CAD-ACS with HTN X 5 years & Left RSD- Left PCNL. left Kidney working only 6%, which requires specialized medical management that cannot be provide within the custodial environment."

6. Thus, it is evident that the petitioner is suffering from serious ailment and his left Kidney is working only 6%, which requires specialized medical management, which cannot be provided in the custodial environment. Accordingly, this petition is allowed on this count alone and the petitioner is ordered to be released on bail in FIR No.279 of 2021, dated 08.09.2021, registered under Sections 354-C and 376 of the Indian Penal Code and Section 67C of IT Act and Sections 6, 10 and 14 of the POCSO Act, at Police Station Nalagarh, District Solan, H.P. on his furnishing personal bond to the tune of Rs.25,000/- with one surety in the like amount, to the satisfaction of learned ACJM/JMFC, Nalagarh, within a period of

two weeks from today. The petitioner shall also abide by the following conditions:-

i.) Petitioner shall attend the trial Court on each and every date of hearing and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application;

ii.) He shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;

iii.) He shall not make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or the Police Officer; and

iv.) He shall not leave the territory of the Country without prior permission of the learned trial Court.

7. It is clarified that the findings, which have been returned by this Court while deciding this petition, are only for the purpose of adjudication of the present bail petition and learned Trial Court shall not be influenced, in any manner whatsoever, by any of the findings so returned by this Court in the adjudication of this petition during the course of the trial of the case and the respondent-State shall be at liberty to file an application for cancellation of the bail in case petitioner violates any of the conditions of bail. The petition stands disposed of in the above terms.

Downloaded copy of this order from the website of this Court shall be valid for compliance.